

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**GAYLORD CONTAINER CORPORATION**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT**

**LA. R.S. 30:2001, ET SEQ.**

\*

\*

\* **ENFORCEMENT TRACKING NO.**

\* **AE-CN-01-0409**

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\* **AGENCY INTEREST NUMBER**

\* **9878**

**SETTLEMENT**

The following Settlement is hereby agreed to between Gaylord Container Corporation (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

**I**

Respondent is a business corporation doing business in the State of Louisiana who operates a corrugated box plant at or near 501 Avenue U in Bogalusa, Washington Parish, Louisiana. (“the Facility”).

**II**

On March 31, 2003, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Number AE-CN-01-0409 to Respondent, which was based upon the following findings of fact:

- A. The Respondent failed to keep records to show the amount of organic hazardous air pollutants (HAP) usage as required by NESHAP Subpart KK for the Printing and Publishing Industry for the Box Plant Miscellaneous Vent (Emission Point No. 74). This is a violation of 40 CFR 63.829(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 and State Only Specific Condition No. 1 of Air Permit No. 3060-00001-V1, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- B. Part 70 Specific Condition Nos. 2 and 3 of Air Permit No. 3060-00001-V1 issued for the Box Plant on May 30, 2001, require that the Respondent demonstrate compliance with the opacity emission limits of the permit by daily visually inspecting emissions from the cyclones (Emission Point Nos. 72 and 73) and from the baghouse (Emission Point No. 75), respectively. Records of emission checks shall be kept on site and available for inspection by the Office of Environmental Compliance, Surveillance Division. It was noted during a review on Thursday, August 16, 2001, of the daily inspection log sheet provided by the Respondent for the week beginning on August 13, 2001, that the vents for Emission Point Nos. 72, 73, and 75 were checked and no visible emissions were indicated through Friday, August 17, 2001. According to the Respondent's employee responsible for the emission checks, the daily log sheet was filled out for Friday prior to actually inspecting the vent. In addition, the daily log sheet indicated that visual inspections had been conducted for the Storage/Backup Cyclone. However, according to an employee of the Respondent, the Storage/Backup Cyclone was never installed at the facility. Each failure of the Respondent to perform daily visual inspections of emissions from the cyclones (Emission Point Nos. 72 and 73) to demonstrate compliance with the opacity emission limits and properly record the emission checks as required is a violation of Part 70 Specific Condition No. 2 of Air Permit No. 3060-00001-V1, and each failure of the Respondent to perform daily visual inspections of emissions from the baghouse (Emission Point No. 75) to demonstrate compliance with the opacity emission limits and properly record the emission checks as required is a violation of Part 70 Specific Condition No. 3 of Air Permit No. 3060-00001-V1. These are also violations of LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- C. During the inspection, it was noted that the Respondent had failed to submit Part 70 Semiannual Monitoring Reports and Annual Compliance Certifications to the Department. The Enforcement Division sent a letter dated November 4, 2002, requesting the Respondent to submit Title V semiannual monitoring reports and annual compliance certifications for the years 1997, 1998, 1999, 2000, and 2001. The Respondent was requested to provide documented evidence if the required reports and certifications had been submitted to the Department. The Respondent submitted the semiannual monitoring reports encompassing the periods of January through June for the years 1999, 2000, and 2001, and the periods of July through December for the years 1999, 2000, and 2001, and annual compliance certifications for the years 1999, 2000, and 2001, without submitting any documented evidence to substantiate that the reports were submitted by the required dates. The Enforcement Division placed a call to the Respondent and left a message to submit the documented evidence. The Enforcement Division has not received the evidence or a reply to the phone message. No semiannual monitoring report was submitted for January through June 1998 or for July through December 1998. Also, no annual compliance

certification was submitted for 1998. Therefore, the Respondent failed to submit by the required submittal dates, the semiannual monitoring reports for the periods encompassing January through June for the years 1999, 2000, and 2001 and July through December for the years 1999, 2000, and 2001 and the annual compliance certifications for the years 1999, 2000, and 2001. In addition, the Respondent failed to submit the semiannual monitoring reports for the periods encompassing January through June 1998 and July through December 1998 and the annual compliance certification for 1998. Each failure to submit the semiannual monitoring reports and annual compliance certifications by the required submittal dates for the years 1999, 2000, and 2001 and each failure to submit the semiannual monitoring reports for 1998 and the failure to submit the annual compliance certification for 1998 constitutes violations of General Conditions K and M of Air Permit Nos. 2465-V1 and 3060-00001-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

### III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

### IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of fifteen thousand (\$15,000.00) dollars, of which five hundred sixty five and 11/100 (\$565.11) dollars represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

### V

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice Of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement.

## VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Washington Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division,

Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

Larry Gennette  
Larry Gennette

Trevi J. Adams  
Trevi J. Adams

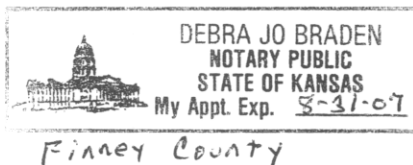
GAYLORD CONTAINER CORPORATION

BY: Donald L. Sparaco Jr.  
(Signature)

Donald L. Sparaco Jr.  
(Printed)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 10<sup>th</sup> day of  
February, 20 04, in Garden City, Kansas.



Debra Jo Braden  
NOTARY PUBLIC

STATE OF LOUISIANA

**Mike D. McDaniel, Ph.D., Secretary**  
Department of Environmental Quality

BY: Harold Leggett  
**Harold Leggett, Ph.D., Assistant Secretary**  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of  
July, 20 04, in Baton Rouge, Louisiana.

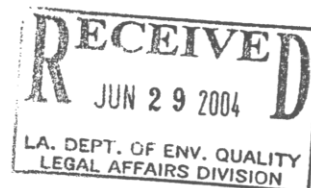
Christopher A. Katchiff  
NOTARY PUBLIC

Approved: \_\_\_\_\_  
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

State of Louisiana  
DEPARTMENT OF JUSTICE  
P.O. BOX 94005  
BATON ROUGE  
70804-9005



June 23, 2004

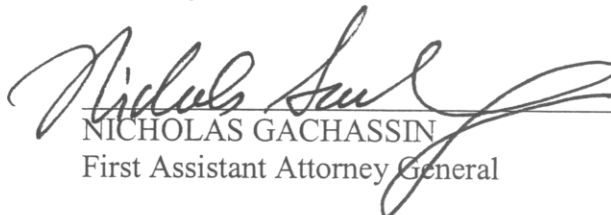
Mike D. McDaniel, Secretary  
La. Department of Environmental Quality  
Office of the Secretary  
P.O. Box 4301  
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;  
Gaylord Container Corporation  
AE-CN-01-0409

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

  
NICHOLAS GACHASSIN  
First Assistant Attorney General

NG/cbw